

Application No.: 10/726,464

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Docket No.: 297912006402

REMARKS

This application has been reviewed in view of the Office Action dated June 6, 2005. Claims 1-17 are pending in the application. Claim 1 has been amended. The specification has been amended in the section entitled "Cross-Reference to Related Applications." Applicants submit that no new matter or issues have been introduced.

Claims 1-17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over USPN 5,868,779 to Ruiz in view of USPN 5,647,848 to Jorgensen. Applicant respectfully traverses this rejection.

Initially, it does not appear that Ruiz qualifies as prior art to the present application because the claims are entitled to at least the filing date of June 12, 1997. Specifically, support for the claims can be found in U.S. Application No. 08/873,413, having a filing date of June 12, 1997, to which the present application is directly related, as reflected in the filing receipt, a copy of which is attached. The earliest priority date for Ruiz is the filing date of August 15, 1997, which is after June 12, 1997. Therefore, Ruiz is not prior art to the present application under 35 U.S.C. §102(e).

Because Ruiz is not prior art to the present application, the proposed combination of Ruiz in view of Jorgensen is inappropriate under 35 U.S.C. §103. Accordingly, claims 1-17 are patentable.

Assuming, *arguendo*, that Ruiz could be viewed as prior art, the proposed combination of Ruiz and Jorgensen fails to teach or suggest all of the claimed features that would render the claims obvious as set forth in MPEP § 2143.03 (MPEP 8th Ed., Rev. 2, May 2004). That is; to establish a *prima facie* case of obviousness of a claimed invention, all of the claimed limitations must be taught or suggested by the prior art. The relied upon combination of references fails to teach or suggest all of the claimed features, including at least a binding layer as recited in amended claim 1.

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Amended claim 1 recites a balloon that includes, *inter alia*, "a binding layer that secures the first fiber layer to the second fiber layer so that the first and second fiber layers are restricted from substantial relative movement during inflation and deflation." Support for amended claim 1 is provided in the originally filed application at, for example, paragraphs [0017] and [0018].

Ruiz and Jorgensen fail to show or describe the feature of "a binding layer that secures the first fiber layer to the second fiber layer so that the first and second fiber layers are restricted from substantial relative movement during inflation and deflation." As stated by Ruiz at column 5, lines 22-34, the balloon element 12 is permitted to expand against expandable mesh 14 due to the sliding actions of the strands (col. 5: 5-11). Hence, Ruiz fails to show or describe the claimed feature of the binding layer, as recited in amended claim 1. Jorgensen fails to cure at least this deficiency of Ruiz because Jorgensen states, at col. 3, lines 63-65, that the fibers have the ability "to reorient themselves with respect to one another..." Thus, Ruiz in view of Jorgensen fails to teach or suggest all of the claimed features of claim 1. Accordingly, claim 1 is patentable over Ruiz in view of Jorgensen for at least this reason.

Claims 2-17 are also patentable over the proposed combination because these claims depend from claim 1, as well as for reciting other features not shown or described in the relied-upon prior art.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

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In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 297912006402. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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